



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,033	02/09/2001	Donald P. Gibson	36.P290	1583

5514 7590 12/31/2007
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
----------	--------------

3622

MAIL DATE	DELIVERY MODE
-----------	---------------

12/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/781,033

Applicant(s)

GIBSON ET AL.

Examiner

John Van Bramer

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55,56 and 58-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 55,56 and 58-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment October 16, 2007 has cancelled no claims. Claims 55, 58, and 59 were amended and new claims 60-62 were added. Thus, the currently pending claims considered below remain Claims 55, 56, and 58-62.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 55, 56, and 58-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al (U.S. Patent Number (6,463,585) in view of Maurinus et al. (U.S. Patent Number: 5,606,365)

Claims 55, 58, and 59: Hendricks discloses a cable head end apparatus in a digital imaging service which includes a plural cable head end apparatuses, a method for providing image display services, and a computer readable memory medium comprising:

Art Unit: 3622

- a. Distribution means for distributing television signals over a digital cable television network to a plurality of remote set top boxes, including a user set top box, and for providing image display services. (Col. 3, lines 29-59; and Col 9, lines 59-64)
- b. A widespread advertising information receiving means for receiving widespread advertising information shared between said plurality of cable head end apparatuses. (Col 10, line 61 through Col 11, line 24; and Col 67, lines 45-52)
- c. First storing means for storing an advertising database, wherein local advertising information is stored in said advertising database, and wherein a like advertising database is respectively provided for each of said plurality of cable head end apparatuses. (Col 10, line 61 through Col 11, line 24; and Col 67, lines 45-52)
- d. A receiving means for receiving data from a storage media via the user set top box. (Col 57, line 54 through Col 58 line 58; and Col 63, lines 15-24)
- c. A second storing means for storing a database, wherein the data received from the set top box is stored in said database. (Col 16, lines 13-20; Col 65, lines 35-46; and Col 65, line 66 through Col 66, line 15).
- d. Obtaining means for obtaining data from a database of one of said plurality of cable head end apparatuses, wherein said one cable head end apparatus from which the data is obtained corresponds to said cable head end apparatus having the database in which the data from the set-top box is stored. (Col 18, lines 9-64; Col 19, lines 4-40; and Col 57, line 54 through Col 58 line 58)
- e. Display controlling means for controlling to display both the data from the set-top box and the obtained advertising data together on a user display wherein the

user display is controlled to display both the photo image and obtained advertising data together via the user set top box. (Col 9, line 48 through Col 10, line 45; and Col 57, line 54 through Col 58 line 58)

While Hendricks discloses an interactive system whereby data is supplied interactively between the set top box and the cable head end, and that the data can be stored at the cable head end and shared with other set top boxes (Col 57, line 54 through Col 58 line 58) he does not specifically state that the data is a photo image. He does however state that upgrades to the users set top box are available that will enhance the services of the disclosed invention (Col 16, lines 13-20), and the analogous art Maurinus discloses the use of a digital camera with the interactive services of a set top box (Col 3, lines 26-35 and Col 6, line 46 through Col 7, line 21). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to include the digital photographs disclosed by Maurinus in the interactive system disclosed by Hendricks. The rationale for including digital photographs is that both Hendricks (Col 57, lines 42-58) and Maurinus (Col 3, lines 26-35) disclose the sharing of data between users within an interactive service and pictures are typically shared between individuals.

Claim 56: Hendricks and Maurinus disclose an apparatus according to Claim 55, further comprising:

- a. Menu display controlling means for displaying a service menu at the user display terminal. (Hendricks: Col 9, lines 6-20; and Col 17, lines 1-53)

- b. Receiving means for receiving a request of the service menu from the user terminal, wherein the display controlling means displays the photo images at the user display terminal in response to the request received by the receiving means. (Hendricks: Col 9, lines 6-20; and Col 17, lines 1-53)

Claims 60, 61, and 62: Hendricks and Maurinus disclose the apparatus, method and medium according to claims 55, 58, and 59 respectively, further comprising forwarding means for forwarding a request to a remote one of said plurality of cable head end apparatuses, in response to a request for a stored image which is not stored in said image database. (Hendricks: Col 58, line 61 through Col 59, line 39)

Response to Arguments

4. Applicant's arguments dated October 16, 2007 with respect to claims 55, 56, and 58-62 have been considered but are moot in view of the new ground(s) of rejection that were necessitated by the applicant's amendment.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3622

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

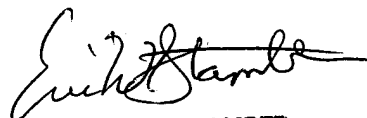
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gub
jvb


ERIC W. STAMBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600